

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION

Jillian Weiss, individually and on	§	
behalf of all persons similarly situated,	§	
	§	
Plaintiffs,	§	Civil Action No 2:20-cv-00001
	§	
v.	§	
	§	
Simple Custodial Services, LLC and	§	
Juliette Graves	§	
	§	
Defendants.	§	

**DEFENDANTS' REPLY TO PLAINTIFF'S RESPONSE TO DEFENDANTS' MOTION TO  
DISMISS PLAINTIFF'S ORIGINAL COMPLAINT**

Defendants, Simple Custodial Services, LLC and Juliette Graves, file their Reply to Plaintiff's Response to Defendants' Motion to Dismiss Plaintiff's Original Complaint.

Defendants timely filed a Motion to Dismiss Plaintiff's Original Complaint (Doc. 6). Plaintiff filed her Amended Complaint (Doc. 10). An amended complaint supersedes a prior complaint and renders it of no legal effect unless the amended complaint specifically refers to or adopts the earlier pleading. *See King v. Dogan*, 31 F.3d 344, 346 (5th Cir. 1994). Since Plaintiff's Original Complaint is of no legal effect, Defendant's original Motion to Dismiss is now moot. *See Mangum v. United Parcel Servs.*, 2009 WL 2700217, at \*1 (N.D. Tex. Aug. 26, 2009) (Fitzwater, C.J.) (denying as moot motion to dismiss after plaintiff filed amended complaint). Since the Amended Complaint has differently numbered paragraphs from the Original Complaint, deletes a few clauses, and adds a few sentences, Defendants will timely respond to Plaintiff's Amended Complaint. The Amended Complaint did not resolve the issues in the Motion to Dismiss, so Defendants will timely file a Motion to Dismiss the Amended

Complaint properly tailored to that document (which will be Doc. 16).

However, should the Court decide to apply the Original Motion to Dismiss (Doc. 6) to the Amended Complaint (Doc. 10), the seven sentences Plaintiff added to her Amended Complaint did not add any facts to support her allegation of an FLSA overtime or minimum wage violation (Issues 1(b) and (c)) or her state law claims (Issues 2 and 3), and the Amended Complaint remains conclusory and threadbare (See Defendants' Motion to Dismiss the Amended Complaint, Doc. 16). Since Plaintiff has had an opportunity to amend her Complaint, Defendants respectfully request that the Amended Complaint be dismissed.

Respectively Submitted,

By: /s/ Michelle Jones  
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ATTORNEYS FOR DEFENDANTS

**CERTIFICATE OF SERVICE**

I certify that service of this document was accomplished pursuant to the Local Rules of this Court, via electronic submission by the Court Clerk through the ECF system.

/s/ Michelle Jones  
Michelle Jones